RB 2010-01 Guidance on Restrictions Resulting from a Decline in Net Worth

March 1, 2010 /RB 2010-01

Restrictions Resulting from a Decline In Net Worth

Introduction

A credit union becomes subject to certain mandatory restrictions when its net worth ratio falls below 6%. Since these restrictions apply automatically, without action by the Department, this Bulletin is intended to provide guidance on determining the effective date of a change in net worth classification.

Definitions

Net worth means the retained earnings balance of the credit union at quarter end as determined under generally accepted accounting principles. It does not include the allowance for loan and lease losses account.

Net worth ratio means the ratio of the net worth of the credit union to the total assets of the credit union as reported on the most recent Call Report

Specific Restrictions

A credit union with a net worth ratio that is less than 6% may

not:

- accept, renew, or roll over any brokered deposits;
- make any member business loans;
- purchase a participation in a member business loan;
- pay any fees for directors or committee members attending meetings; or
- invest in or make a loan to a credit union service organization (CUSO) that engages in activity other than the performance of services for credit unions or members of credit unions, where such activity equals or exceeds one half of the CUSO's total revenue.

General Guidelines

A credit union becomes subject to the specific restrictions as of the date it becomes aware of its net worth classification. A credit union shall be deemed to be aware of its net worth ratio no later than the last day of the calendar month following the end of the calendar quarter. Therefore, credit unions are responsible for monitoring their net worth ratio to remain alert to their net worth classification. Credit unions that operate with a net worth ratio at or near the 6% level must be attentive to the impact of the credit unions' operations on the net worth ratio to avoid violating any of the specific restrictions.

Failure to timely file a Call Report as required under Section 122.101 of the Texas Finance Code in no way alters the effective date of a change in net worth classification, or the credit union's corresponding legal obligation. Moreover, credit unions that incorrectly report their financial condition in their Call Report by deferring losses or by failing to make sufficient provisions for their loan and lease loss reserves violate the financial reporting provisions of Rule 91.515. Such violations may subject the credit union to enforcement actions.

Adjustment to Reported Net Worth Ratio

If a material event occurs between Call Report periods that would cause the net worth ratio to rise above 6%, the credit union may request the Department re-determine its net worth classification for purposes of these restrictions. Movement upward is not automatic and occurs only if agreed to in writing by the Department.